

SB 1152/HB 3535's Impact on Houston

What it does:

- SB 1152/HB 3535 allows companies that currently pay both cable franchise fees and telecommunication access line fees to pay a municipality only the greater of the two amounts.

Why it's unconstitutional:

- The Texas constitution expressly prohibits public property to be used by private entities for less than market value.^{1 2}
- By allowing providers and franchise holders to pay only one of their two fees, SB 1152/HB 3535 forces cities to make an unconstitutional "gift" of public property.
- Some companies could be able to use a city's right-of-way without ANY compensation to the public.
 - If their statewide cable fees are greater than their statewide telecom fees, Grande Communications will provide ZERO compensation to Houstonians for their use of public right-of-way, even though they operate as a telecom provider throughout the city.

How it hurts Texas cities:

- Houston stands to lose anywhere between \$17 and \$27 million dollars annually.
- Dallas may lose up to \$9 million.
- Texas cities spend billions of dollars each year maintaining the public right-of-way for health, safety, and the benefit of all who use it.
- Any reduction in public right-of-way compensation is an illegal gift of public property and threat to the public right-of-way as well as the residents, cities, and companies that use it.

Potential Houston Fiscal Impact:

| Company/Type of Fee | FY2018 Actuals | FY2020 Budgeted | Minimum Potential Loss | Maximum Potential Loss |
|---|------------------|-----------------|------------------------|------------------------|
| AT&T Access Line Fee | \$ 18,328,996.10 | \$15,052,410.09 | | \$ 15,052,410.09 |
| AT&T Franchise Fee | \$ 7,580,755.90 | \$ 6,644,884.87 | \$ 6,644,884.87 | |
| Comcast Access Line Fee | \$ 9,751,749.99 | \$10,208,379.44 | \$ 10,208,379.44 | |
| Comcast Franchise Fee | \$ 12,868,717.25 | \$11,882,346.41 | | \$ 11,882,346.41 |
| Suddenlink Access Line Fee | \$ 181,576.72 | \$ 168,745.31 | \$ 168,745.31 | |
| Suddenlink Franchise Fee | \$ 634,799.23 | \$ 540,791.59 | | \$ 540,791.59 |
| Phonoscope Access Line Fee | \$ 87,634.85 | \$ - | | |
| Phonoscope Franchise Fee | \$ 121,885.68 | \$ - | | |
| ETS Telephone Access Line Fee | \$ 246.36 | \$ 42.66 | \$ 42.66 | |
| ETS Telephone Franchise Fee | \$ 10,193.98 | \$ 8,228.16 | | \$ 8,228.16 |
| Consolidated Communications Access Line Fee | \$ 14,172.56 | \$ 13,631.55 | \$ 13,631.55 | \$ 13,631.55 |
| Grande Communications Access Line Fee | \$ 916.27 | \$ 902.93 | \$ 902.93 | \$ 902.93 |
| Frontier Telecom Access Line Fee | \$ 20,263.98 | \$ 16,290.20 | \$ 16,290.20 | \$ 16,290.20 |
| Time Warner Cable Digital Phone Access Line Fee | | \$ 222.98 | \$ 222.98 | \$ 222.98 |
| | \$ 49,601,908.87 | \$44,536,876.19 | \$17,053,099.94 | \$27,514,823.91 |

¹ [Texas Constitution, Article III, Section 52 \(a\)](#)

² [Texas Constitution, Article XI, Section 3](#)